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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/739,326	12/19/2000	Seiji Nemoto	Q62363	2590

7590

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EXAMINER

CREPEAU, JONATHAN

ART UNIT

PAPER NUMBER

1746

DATE MAILED: 08/12/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

AS/2

Office Action Summary

Application No.

09/739,326

Applicant(s)

NEMOTO, SEIJI

Examiner

Jonathan S. Crepeau

Art Unit

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7 and 8 is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 11. 6) ☐ Other:

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 19, 2003 has been entered. This Office action addresses claims 1-10 and newly added claims 11-14. Claims 7 and 8 are allowed. Claims 1-6, 9, and 10 remain rejected under 35 USC §102 for the reasons of record, and claims 11-14 are newly rejected under 35 USC §102 as necessitated by amendment. This action is non-final.

Claim Rejections - 35 USC § 102

2. Claims 1, 4, 5, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Roth et al (U.S. Patent 3,977,907). Regarding claims 4 and 5, Roth et al. teach a single-head jack (13) provided concavely in a battery body (14). Regarding claim 1, the jack comprises positive and negative terminals (82, 94) which are insulated from each other (see Figs. 2-4 and col. 3, line 54 et seq.). Regarding claim 1, the terminals (82, 94) are capable of supplying power from the battery to an appliance using the battery. Regarding claim 12, the battery is a secondary battery (see abstract) and the terminals are capable of serving as input and output terminals.

Thus, the instant claims are anticipated.

3. Claims 1-3, 6, 9, 10, and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Iwaizono et al (U.S. Patent 6,322,921). Regarding claims 1 and 9, as shown in Figure 14, the reference is directed to a cylindrical secondary battery comprising a battery body (90). Regarding claims 1-3, the battery is provided with a cap structure having a negative terminal (61) integrally formed with a positive terminal (65) through a layer of insulation (63) (see col. 12, lines 9-17). Thus, the cap structure constitutes a single input-output terminal having a convex plug structure. Regarding claim 10, the positive and negative terminals are coaxially disposed. Regarding claim 6, as shown in Figure 15, the terminal includes a first-polarity terminal (85) formed concavely in a tip of the terminal, while a portion of the second-polarity terminal (81) is arranged on the outside of the terminal. Regarding claim 1, the terminals are capable of supplying power from the battery to an appliance using the battery. Regarding claim 12, the battery is a secondary battery (see abstract) and the terminals are capable of serving as input and output terminals.

Thus, the instant claims are anticipated.

4. Claims 1-3, 11, 13, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 3-37753U. Regarding claim 1, as shown in the Figure and described in the abstract, the reference is directed to a battery (1) comprising a battery body. Regarding claims 1-3, the battery is provided with a single input-output terminal which is in the form of a convex single-

head plug (2). Regarding claim 11, this terminal is the only terminal on the battery (see the Figure). Regarding claims 1, 13, and 14, the plug is connected to an appliance (4) via an appliance jack (5), through which power is supplied from the battery to the appliance. Regarding the limitation in claims 1, 13, and 14 that the positive and negative terminals of the single input-output terminal are electrically insulated from each other, this feature would inherently be present in the structure of the reference in order to avoid a short-circuit.

Thus, the instant claims are anticipated.

Response to Arguments

5. Applicant's arguments filed May 19, 2003 have been fully considered but they are not persuasive. Regarding the Roth et al. reference, the Applicant asserts that the jack terminals are used for charging the battery only, and are thus not used "for supplying power from said battery to an appliance using said battery." However, it is submitted that the jack terminals (82, 94) of Roth et al. are *capable* of supplying power to an appliance. If a prior art structure is capable of performing the intended use recited in a claim, then it meets the claim. See, e.g., *In re Schreiber*, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997); MPEP §2111.02.

Applicants further assert that "it is apparent that 'battery body' described in the present specification does not include 'top closure 14' in Roth et al." However, it is submitted that the term "battery body" as used in the present claims is broad enough to read on the enclosing structure defined by container 10 and cover 14 of Roth et al. In their accompanying remarks, Applicants define "body" as "the chief, central, or principal part or mass of anything." It is

submitted that the combination of the lid 14 and container 10 of Roth et al. comprise the “body” of the battery, and as such, claim 1 remains properly rejected over Roth et al. Furthermore, referring to Applicant’s specification on page 9, second paragraph, it is stated that “[t]he battery of the present invention can be produced by ordinal [sic] manner, and the battery of the present invention can be applied for a various type of battery, such as a lead acid battery, a Ni-Cd (nickel-cadmium) battery, a Ni-MH (nickel-metal hydride) battery, a silver zinc oxide battery, a lithium ion battery, etc.” It is submitted that these batteries are all conventionally formed with lid members. Thus, applicant’s specification discloses and encompasses a variety of battery types and configurations, including batteries with lid members. Accordingly, it is believed that such lid members fall within the scope of the term “battery body” as recited in the claims.

The Applicant also argues that the large container (10) of Roth et al. is not a “battery body” at all, and that the individual cell cans (20) correspond to the “battery bodies” of claim 1. However, this argument is not persuasive. It is submitted that the entire apparatus of Roth et al. may be defined as a “battery.” The battery contains a plurality of electrochemical cells. See column 2, line 54 of Roth et al. As such, the term “battery body” corresponds to the outer container/lid enclosure (10, 14) of Roth et al.

With regard to the Iwaizono reference, the Applicant asserts that this reference teaches that the minus terminal of the appliance is connected to the battery case 90 and not inner cap 61. While this assertion has merit, claim 1 is not written in such a way so as to positively require the presence of an appliance. As stated above, claim 1 includes the recitation “wherein said positive terminal and said negative terminal are terminals for supplying power from said battery to an appliance using said battery.” Thus, the appliance is recited functionally. The terminals (61, 65)

of Iwaizono are capable of supplying power to the appliance. Accordingly, the structure of Iwaizono meets claim 1.

The applicant further asserts with regard to the Iwaizono reference that instant claim 6 defines over this reference because “the terminal (85) in Fig. 15 is ‘formed convexly’ and not ‘formed concavely’.” However, the Examiner maintains the position that the terminal is “formed concavely in a tip of said input-output terminal,” as recited in claim 6. It is still believed that the bottom part of element 85 may be said to be formed “concavely” since it tapers inward in a downward direction. Additionally, Applicants assert that “[m]oreover, the terminal (81) is not ‘outside’ the terminal (85) and ‘inside’ the terminal (85).” However, it is submitted that claim 6 does not actually recite that one of the terminals is positioned “outside” the terminal of the opposite polarity. The claim merely recites that the terminal is “arranged on an outside of said input-output terminal,” i.e., the entire terminal structure. The Examiner maintains the position that the top part of the second terminal (81) of Iwaizono is “arranged on an outside of said input-output terminal,” as recited in claim 6. Therefore, it is still believed that claim 6 is anticipated by the Iwaizono reference.

Allowable Subject Matter

6. Claims 7 and 8 are allowed.
7. The following is a statement of reasons for the indication of allowable subject matter:
The reasons for allowance of claims 7 and 8 were given in the Office action September 11, 2002 (paper no. 5) and remain applicable herein.

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Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Crepeau whose telephone number is (703) 305-0051.

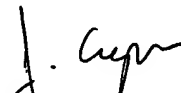
The examiner can normally be reached Monday-Friday from 9:30 AM - 6:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski, can be reached at (703) 308-4333. The phone number for the organization where this application or proceeding is assigned is (703) 305-5900. Additionally, documents may be faxed to (703) 872-9310 (for non-final communications) or (703) 872-9311 (for after-final communications).

Any inquiry of general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

JSC

August 8, 2003


JONATHAN CREPEAU
PATENT EXAMINER
ART UNIT 1746